



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MARCH 22, 2005

PRESENT: Acevedo, Benich, Escobar, Koepp-Baker, Lyle, Mueller, Weston

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder, and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:07 p.m., and led the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the opportunity for public comment.

Having ascertained that no persons were present to address matters not appearing on the agenda for the evening, Chair Weston closed the time for public comment.

MINUTES

MARCH 1, 2005

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE MARCH 1, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 5, paragraph 2: Commissioner Lyle said one possibility would be for the projects to go into FY 08-09, noting that if not all the downtown allocations are given out, those allocations can be moved *outside the downtown area* to better accommodate other projects. Discussion ensued with Commissioner Mueller addressing the fact that the affordable unit category has 50 allotments for FY 07-08 *instead of the 60 units discussed previously*. ~~PM Rowe advised that reliance on those numbers could present a problem, as the City Council had pulled 40 of those for FY 07-08, which could result in 'an issue'.~~

Page 5, paragraph 5, line 4: ~~Mission Ranch the Lupine project~~

Page 7, last line: (add) *downtown units*

Page 9, paragraph 2, line 3:.... move the 08/09 units to FY 07-08, and three (3) *allocations in FY 2008-09.*

Page 10, paragraph 3, line 6: **TAYLOR-MURRAY IN FY 2008-09 2007-08.**

Page 10, paragraph 5: **WHICH CARRIED WITH THE FOLLOWING VOTE:**

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ACEVEDO, BENICH, ESCOBAR, *LYLE*, MUELLER, WESTON; NOES: ~~LYLE, MUELLER (having noted their continued concerns of a 'problematic' number of allocations remaining available)~~ NONE; ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

MARCH 8, 2005

The following **correction** was made; the remainder of the March 8, 2005 minutes were ordered held for verification:

Page 4, paragraph 5: ~~build-out slow student build-up and a count and postpone the analysis~~ *periodic counts and analyses*

Commissioner Lyle was excused at 7:10 p.m. for the next agenda item due to the potential for conflict of interest, as he lives nearby the subject property.

OLD BUSINESS:

2) ZAA-04-01/
SD-04-16/
DA-04-08:
TILTON-
GLENROCK

This is a request for approval of a precise development plan for the remaining 18 acre area within the Capriano subdivision located on the south side of Tilton Ave., east of Hale Ave.; also requested is the approval of a 42-lot subdivision and development agreement.

SP Linder gave the staff report. She reviewed the events and previous meetings which had led to this event. An overview of the precise development plan, the project location and the future build-out of the project was provided. SP Linder reminded that at the Planning Commission meeting of February 8, 2005, a list of disputed items, totaling 23 matters, had been discussed. The Commissioners at that meeting had given specific direction the applicant regarding changes required for the proposed RPD. Consequently, there were now six issues which had not been resolved on the revised RPD plan.

Chair Weston outlined the method of presentation and discussion, indicating that the applicant, Rocke Garcia, and his engineer, Bill McClintock of MH Engineering would be responding to the issues as they were brought forward, following Staff presentation. Chair Weston specified that once the Staff presentation and the applicant's response had been heard, Commission discussion and voting on the issue would take place.

SP Linder continued, pointing out that the first issue dealt with differences in the calculations of *Housing Types* [**items 3 – 5 – 7 on the list of 23**] in the commitment made on the project's original RDCS application. SP Linder called attention to the Staff report which had been distributed (emphasizing pages 3 and 4) where a brief summary of the Housing Types inconsistencies could be found. She also called attention to the table on page 3, correcting the error under 10% Moderate Rate Units/Total No. required for a 212 unit project ~~43~~ 12.

Item 3, the first issue, SP Linder informed, is whether the single-story BMR units can be counted as fulfilling the 15% single story housing type commitment". SP Linder quickly gave a quick overview of the 10% requirement of BMRs in a project, stressing the question can BMRs fulfill the single story commitment? "In the new criteria, it is clarified and so now an applicant can count BMRs as single-story housing units.

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However, in the projects original application, that was not the case,” SP Linder explained.

Also at issue SP Linder told the Commissioners, was the total number of single-story houses required for a 212 unit project. Staff believing that to meet the 15% single-story units, a total of 32 would be required. She denoted the applicant has asked for the Commission’s consideration of the exclusion of the 51 R-2 units from the 15% calculation. The exclusion of the 51 R-2 units would lower the total number of required single story units to 24.

Chair Weston read aloud the table of Total Number of Housing Units and indicated lack of understanding. SP Linder explained that the differences in the figures given and said the exclusion of R-2 units implies simply that the applicant is asking for consideration by the Commissioners for exclusion of the 51 R-2 units.

Continuing, SP Linder clarified still a third issue; the currently proposed single-story BMR units have gotten smaller than what was committed in the original application, and Staff recommends increasing the size of the BMRs to a minimum of 1450 sf. The currently submitted plans are 189 sf less.

Mr. McClintock addressed the Commissioners, saying the calculated Total Project Housing Type and TDC requirements/ Total: Provided + Proposed were 11 and criticizing ‘the whole process is an algorithm’. Mr. McClintock said he had gone over the problem with SP Linder before meeting, and indicating a belief that the “z” lots had been included in the calculation. Ultimately, Mr. McClintock and Staff agreed that there was at least partial agreement on **item 5** and further agreeing that Mr. Garcia and SP Linder will go through the application for clarification. Mr. McClintock stated, “If he is correct, the Total: Provided + Proposed is 11; if SP Linder is correct, 12.” He also criticized, “The numbers are tough and convoluted.”

Mr. Garcia told the Commissioners what changes had been done with the size of the BMRs, adding, “I don’t think we should lose the points.” He reminded that the Commissioners requested larger BMRs and said, “We will have three distinct BMR plans. This is the only project in Morgan Hill providing such a difference in plans. We think this is pretty good and in talking with Lourdes Balderas of the City’s Housing Development Program, more people qualify, as we will offer 2, 3, and 5 bedroom models. It was noticed that this deals with item 19 and would be discussed later in the meeting.

Mr. McClintock addressed the single-story issue: all single-story BMRs in the R-2 are counted as single-story; therefore, the Commissioners are ‘OK’ with reduced square footage of the single-story units. Mr. McClintock continued by saying, “SP Linder made a statement that the BMRs had shrunk; one did, but we added other models, so there has been a ‘trade off’.” Mr. McClintock spoke about the housing types and interpretation of Staff that the required 15% BMRs were not only the single story units ‘but also the R-2 product’. Mr. McClintock described this phase of the development as a ‘hybrid because this is a mix of R-1 and R-2; then explained how the application had achieved points for that mix: Because it is mixed R-1 and R-2, we get points (15) because of the attached and detached units, and this is also true for R-1, which he said was displacing the single-story requirement.

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Chair Weston asked if Mr. McClintock was arguing that because this project was a different mix because of the two zonings, but not considering the whole project?

Mr. McClintock retorted, "I'm saying the score in R-2 was 7 points, and with R-1 and R-2, we would still get 7 points.

Mr. Garcia announced, regarding the scoring, that of the 51 units in the R-2s, it would mean there would be more than 1/3 of the homes as single-story and therefore the application would have scored the maximum number of points. "It's just a difference in the way the scoring is done," Mr. Garcia declared.

Mr. McClintock observed that the applicant is planning to do eight additional BMRs in the R-1 to make up for the R-2.

It was noted that the criteria had been changed so that the BMRs now counted as single-story units.

Chair Weston raised the issue, also as part of argument, that the BMRs as shown now are smaller than those indicated in the application. Commissioner Escobar concurred, saying, "13% less the size of those originally shown."

Mr. Garcia responded, "A 3-bedroom sells for less and is smaller than a 4-bedroom. The starting price for a BMR is \$190,000. We have 17 in that price range for the 3-bedroom and we offer a 5-bedroom which is over 1700 sq ft.

Commissioner Benich inquired of the scoring within the competition, asking if - for a BMR - the scoring was done on a square footage basis? Mr. Garcia responded, "No that's miniscule."

Chair Weston questioned the square footage for the BMRs which has been reduced from 1450 sq. ft. to 1245 sq. ft. asking about the original commitment made and noting the size reduction. "If the applicant had put down a smaller number (1245 sq ft.), would that application still have gotten the points it did?" SP Linder explained that the City says an applicant cannot change and detract from a project; the question is the reduction of size and whether it will detract from the project."

Commissioner Escobar asked how many units have five bedrooms? (Two)

Commissioner Mueller inquired as to how many single-story non-BMRs the project has? Mr. McClintock responded 22, and those are on Saffron. Mr. McClintock went on to explain the placement(s) of the single-story units and telling Commissioners there are 20 single-story units and 4 BMR single-story units, with the total units in this phase as 160.

PM Rowe refocused attention to the question: can the applicant count the BMRs retroactively? (**Item 3**)

Chair Weston led discussion saying the commitment is based on the data shown on page 3 of the Staff report [Total Number (of units) required for a 212 unit project /15% Single-Story Units] recalling this project has the 212 units and so according to the City requirements, he will need to provide is 32.

Mr. Garcia argued that because of the difference between the R-1 and R-2 areas and with the 51 R-2 units excluded, the requirement will actually be 24 units.

PM Rowe reflected that an applicant can achieve the maximum 7 points in R-2 without a single-story, but the R-1 must have the 15% single story commitment. PM noted the narrative did not make distinction of R-1 and R-2, but simply stated '15%'.

Commissioner Mueller provided the example of the reason the language was put in: some applicants excluded BMRs *and the exempt units* in the calculations, but Staff had to count BMRs, if they were required to be part of the project. Commissioner Mueller maintained there to be some validity to the R-2 if R-2 housing types get 7 points and in R-1 there was the requirement of 15%, then if the applicant lumped the 2 together, the resultant mix changes the housing type requirements. Commissioner Mueller said, "There is some validity to separating the two out, as it seems to require more of the combined projects."

Commissioner Escobar said, "And it is adding more variety to the project."

Commissioner Mueller continued, saying, "Originally the requirement was put in to cover the project. While it still has validity, I feel now the applicant can separate out the 51."

Commissioner Benich agreed when he said, "If we allow the reduction, it would be consistent with the current criteria."

Commissioner Mueller reiterated he is in agreement with separating the R-1 and R-2 zoning for housing types identification.

Commissioner Acevedo asked if there is another example in the City of R-2 project where the 15% rule has been applied? SP Linder responded, "As the R-2 goes, we have not generally processed any which have single-story BMRs."

CONDUCTING A 'STRAW VOTE,' FOR ITEM 3, CHAIR WESTON DETERMINED THE COMMISSIONERS IN FAVOR OF EXCLUDING THE 51 R-2s FROM THE TOTAL WERE: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, MUELLER; AGAINST: WESTON; ABSENT: LYLE.

Item 5, Chair Weston observed, "The number of moderate-rate units look as though they were under control." Staff agreed it 'appears to have been worked out'.

Item 7 [Distribute the 8 secondary dwelling units in proportion to the number of units proposed within each project phase. (For example, a 30-unit phase should include 3 secondary dwelling units). [Staff recommendation: apply current rule count BMRs as single-story pt of 15%]]

SP Linder advised that if the Commissioners count a single-story BMR, there would be need 'to talk size'.

Commissioner Escobar queried, "What is the hesitation?"

Commissioner Mueller observed, “This year is the first year BMRs count for single-story housing types. It was not that way in 2002 when this application was done.”

Commissioner Acevedo referred to the map and said, “There are two existing (BMRs) to be built; they look like small single-story units.” SP Linder clarified the locations of the units being discussed.

Commissioner Mueller discerned, “It all comes down to the two single-story units. We had BMRs proposed in the application but not built. Then the BMRs that have been built are smaller than what the Measure C application said would be built.”

Mr. Garcia responded that the number might be incorrect. “But the number of single-story lots (12 or 13 for a 212 unit project) is in question: do we need those for the cap of single-story units now that the 51 (in the R-2) have been excluded?”

SP Linder explained the 51 R-2 have been subtracted so the number would be 24 and therefore the project could meet the objective without the BMRs.

Mr. Garcia then said, “We would like a single story on each corner, but we can live with the two-story.”

Commissioner Mueller asked if the project would have 24 single-story units without counting the BMRs?

SP Linder informed the Commission that staff had re-counted the single-story units in the section and the total was 20, not 24, so it was ‘still a no-go’.

Commissioner Acevedo looked at the lots for the BMRs and said he found the lots to be small. “If the size of the BMRs is increased, will the BMRs fit on the lots?” he asked.

Mr. Garcia informed, “The single-story units for the market rate have a larger footprint than a two-story BMR. In answer to Commissioner Acevedo, if you require the BMRs to be a larger square footage than we have shown and if they will then fit on the lot, no, we can’t make larger than we now have them.

PM Rowe was asked for further clarification, and advised Commissioners: There were two aspects of the 15% single-story units/ total number required for a 212-unit project had been decided as to whether to include the single-story units as BMRs for counting as part of the single-story commitment in the application of 2002. The application under discussion had said – at that time – it would not be done [requirement for alternative], but more recently had been allowed with the criteria change.

Commissioner Benich stated the single-story BMR should be counted.

Commissioner Mueller spoke of hesitation in taking the current rules and changing them now retroactively. He noted all other applicants didn’t change their commitments when the projects were approved, they couldn’t do now what this applicant was asking.

Commissioner Escobar said that if Mr. Garcia had come back to the Commission asking for the change as soon as criteria changed (the change to allow BMRs to be counted), he

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could not say what might have happened. "This seems to be an effort to correct, make the adjustment with assumption of the distribution of the BMRs. I don't know if there were hesitations because of time," Commissioner Escobar said.

Commissioner Koepp-Baker commented the distance of time merely identifies the difference of the criteria in 2002. "He didn't have the ability to do what he is now asking under the current criteria," adding she did not have an issue with the request.

Commissioner Escobar led further discussion, saying, "We don't need to be stuck in 2002, if we're being offered a better project now."

PM Rowe noticed that had the project competed this year (but it did not) those would have been under the current rules.

Chair Weston asked, "Are we going to count the BMRs?"

Commissioner Koepp-Baker said "No," as she referenced the application committed to square footage of 1450 for the BMRs.

Commissioner Benich said, philosophically, he didn't like to keep reducing the size of the BMRs and indicated he favored trying to keep the BMRs as close as possible to the rest of the project.

Commissioner Mueller said he thought 2 BMRs had already been built.

CHAIR WESTON ASKED, "WILL WE REQUIRE THE BMRs TO BE BUILT TO THE ORIGINAL APPLICATION RATHER THAN THOSE CURRENTLY PERMITTED?" COMMISSIONERS ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, AND WESTON SAID YES; MUELLER SAID HE WAS AGAINST; LYLE WAS ABSENT.

Item 10 [Provide an additional model which is distinctly different in size and floor plan configuration from the model currently proposed. The additional plan should also have four distinctly different elevations.]

Chair Weston remarked this is fairly explicit.

Mr. Garcia says this plan was the one Shea (builders) had used and he was getting permission to use it in this phase, but the Architect was busy and had not had time to send a letter of agreement.

Chair Weston says the letter could clarify the issue.

Mr. Garcia said the Architect is from Long Beach and Shea had used the plan. "When those 82 units were completed and Shea was no longer in the picture, he had agreed - for the next Phase - to use these same home plans, as they typically were to be located within 100 ft +/- of those already built," Mr. Garcia explained.

Chair Weston said to Mr. Garcia, "If you get the letter of agreement from the owner of the plan, that should take care of it."

Item 11 Models should not be placed adjacent to each other and should be evenly distributed throughout the project.

SP Linder said the current application has been improved; however, the applicant still has lots 52 and 53, with four D models making up the cul-de-sac. There are different elevations, but the same floor plans, the same model and the same mass on lots 47, 48, 58 & 59 and lots 79 & 80 have the same models; the elevations are different, but the plan is the same.

Mr. Garcia exhibited a map on which he said had been pointed out that the R-2 project has four different housing types on the “z” lots, and on lots 39 and 40 the models were paired all the way down Dougherty, with the port-a-share lots on most of them. Mr. Garcia claimed the R-2 projects have a garage, or a 2-story townhouse effect. What we have done on plan D, we have four at the end of the cul-de-sac and modified attached, others detached, others three-car garaged, some 2-story, so we need not only to look at significant differences in the house designs, but the different views. Mr. Garcia said he likes the way the cul-de-sac was done. “We took the detached on one side and on the other, attached it to the C plan. It worked for continuity, yet individuality,” Mr. Garcia declared.

Mr. McClintock also addressed the issue, saying he wished it were as easy as ‘plugging in other units’ and asking the Commissioners to understand the constraints the park and Dougherty are in and we can’t move the infrastructure there. Public Works gave us a little wiggle room on Saffron Dr., so if we take some of the units where the “z” lots are deeper and don’t fit in the current areas. We don’t want duplication, so we have made all four D plans with different elevations, so they don’t look all alike. He pointed out that Plan 2 is broken up with the D plan and on the streets Plan A is repeated only twice, with the others (B-C-and D) placed with no duplication. “So we feel we have varied it enough to make a nice streetscape,” Mr. McClintock proclaimed.

SP Linder returned to the basic issue: there is need for variety so difference can be seen on the street. Mr. Garcia responded, “That is why we have four plans; they are the same, but because some are reversed, or changed, they have the same weight.”

Commissioner Acevedo commented there are a couple of other instances where the plans are the same, citing Tilton and Coriander, and asking, “Why is that different?” SP Linder answered, “The same comment by Staff can hold true in all the other areas.”

Commissioner Mueller stated, “Tilton is not part of this application, but is part of the total project.”

Commissioner Koepp-Baker asked if the applicant had gotten some mitigation points for that, as well?

Chair Weston clarified that because the applicant was allowed to do some variation there probably was some measure of mitigation. He went on to comment, “This is better than before. Now PL 4 is a new plan introduced. In fact, PL 4 is different and we don’t have an instance where the same model is repeated.”

Commissioner Benich said repeating the model/plan on Tilton may have some validity

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as it can't be seen that much from Santa Teresa.

Commissioner Acevedo commented that when he looked at the elevations, he could see a variety of finishes, such as different rock.

Chair Weston reflected that the 'mass, bulk is generally the same'.

Commissioner Escobar said, "When the Commissioners talked about this matter last, there appeared to be more concern about esthetics, and appearance. We indicated we wanted different elevations, and I'm convinced that happened in the cul de sac. I'm not concerned that the floor plans are the same. That seems to be a matter of perception and visibility. I think we should be concerned with those, – and it is not a big issue."

WITH ANOTHER STRAW VOTE, CHAIR WESTON ESTABLISH THE COMMISSIONERS PRESENT, WITH LYLE ABSENT, WERE IN FAVOR OF KEEPING THE PLANS (THERE WAS NOT A CONCERN WITH PLAN REPETITION) AND ELEVATIONS THE SAME (AS NOW SHOWN).

Item 16 [Amend the boundary of lot 9 to exclude the area at the end of the cul-de-sac] was noted as having been addressed, with the right-of-way excluded from lot 9. In the event Saffron and Tilton are joined, the need for the right-of-way would mean looking really at a 'wash,' even though the square footage of the lot would be going below the 12,000 sq. ft. minimum.

Commissioner Mueller said the Commission needed to provide explicit clarification of a potential change in ownership of the lot(s) on the cul-de-sac.

Discussion ensued regarding the closure of Tilton if Madrone Parkway goes through as a street.

SP Linder advised that if the street goes through, the question would be whether the City would take the 'crescent' (of the cul-de-sac) out?

Chair Weston said it appears that an identical situation exists on lot 16.

Commissioner Mueller explained that technically, if the City would be going to take the cul-de-sac out, there would be need to give the right-of-way back so that the lot could meet the 12,000 sq. ft. minimum requirement.

Chair Weston commented, "We want everyone to be clear that the lot will be below the 12,000 sq ft minimum requirement. SP Linder said that would be true initially, but the front part of the lot would be given up for the cul-de-sac, with agreement by the City. It was made clear that the intent of both the Commissioners and Staff is: the property owner should get help restoring property. By consensus, this was unanimous; Commissioner Lyle was absent.

Item 18 [The BMR units proposed within the R-2 area should be designed to have front entries and front elevations similar to the market-rate units proposed within the R-2 area]

SP Linder said the proposed BMRs are similar to the moderate-rate units, except one could not see the front door from the street. It appears the applicant is utilizing floor

plan A2c and the front door is still not facing the street.

Commissioner Mueller asked in the R-2 how many BMRs are there [6] and how many have plan 5 [5]. It was determined that on lots 56 and 75, the entrance remains at the side of the unit.

SP Linder said that Plan 4 is used for lots 57, 61; plan 3 for lot 43; and plan 4 [83] on lots 1, 2, and 3. "We can see the front door on 3 of the 6 BMRs," she informed. SP Linder went on to explain this is viewed as a safety issue: the side entry to the BMRs become a 5-ft tunnel.

Mr. Garcia spoke again, indicating that the BMR on lot 43 faces the street and on Coriander. Others he noticed were on lots 56 and 75 that do not have front door-facing the street plans. Mr. Garcia spoke at length about the Spring Hill development that another Architect from Santa Barbara who has won awards for many designs did, and 'every one of those designs had side entries'. Mr. Garcia said he believed that Measure P and C criteria said that the project must have 75% of units to meet safety requirements, and only these two were ones with side entries. "These are the only three here that would have side entries," he said, telling again that the Spring Hill development is inviting and safe. He went on to point out that the side yards of lots 56 and 75 are adequate and still the units have side entries. PM Rowe reminded that of the BMRs in this phase there must be 75% with front entries. Mr. Garcia disagreed, saying that was in the entire project. SP Linder said the basic issue was: the applicant could have made a better effort to make the BMRs match the other units

Following considerable discussion, **THE MAJORITY OF THE COMMISSIONERS PRESENT – WITH WESTON DISSENTING AND LYLE ABSENT – AGREED THAT THE LOTS WITH SIDE-FACING ENTRIES WOULD BE KEPT AS THE CURRENT PLANS INDICATE.**

Item 19 [Increase the size of the BMR with the inclusion of two additional plans]

SP Linder reference the Plan 5 BMR and noted that at the last meeting, the applicant committed to change/increase or have increased by 430 square feet the BMRs in this phase. She noted the applicant has only used that factor in two of the six and inquired if this was the intent of the Commissioners, or if the 430 sq ft is acceptable?

Commissioner Escobar commented this plan provides variety in the number of individual BMRs, but is smaller. He added that BMRs can be the same or different, and so felt this provides selection basis.

Chair Weston reminded that originally BMRs were not to 'stand out' from other units in the development.

SP Linder suggested providing a moderate rate plan in lieu of the already built BMRs. She pointed out that the discussion centered on the units on lots 56 and 75 where the Plan 5 exist. Lot 61 would accommodate a Plan 5, so that would provide the needed square footage.

Commissioner Mueller commented the 5-bedroom units are popular and matches better in the area. "However, he pointed out, that will mean losing one front door to the street side."

COMMISSIONERS ACEVEDO, ESCOBAR, KOEPP-BAKER, MUELLER, AND WESTON AGREED TO CHANGE THE UNIT ON LOT 61 TO MATCH LOTS 56 & 75, THEREBY PROVIDING MITIGATION FOR ITEM 19; BENICH WAS IN OPPOSITION; LYLE WAS ABSENT

Item 21 [The three "z" lots should be moved off Tilton Ave and relocated interior to the project. Staff and the applicant will decide on the location]

SP Linder said that the Staff intent was to avoid clustering small units in one area of the project. SP Linder informed she had counted the units on Saffron and there were 47%; consequently, Staff is suggesting one of the moderate rate units be placed to the interior of the project.

Commissioner Mueller asked if the moderate-rate unit was shown, where would it be?

Chair Weston expressed concern that at Saffron and Coriander a little village would exist and should be separated by a BMR.

Commissioner Acevedo remarked there is not a whole lot of a different feel when comparing this with going down Tilton toward Dougherty. As you're going down the neighborhood you will have smaller units on the side and that's the way it is, he indicated.

Chair Weston observed that Commissioner Acevedo's suggestion could make so the intent was to have a difference in parts of the plan, as he had understood the Commissioners were being asked if they wanted to see the units on the "z" lots spread out a bit more.

Commissioner Mueller referred to earlier dialogue in which Staff had indicated the application is still short one moderate rate unit and he felt discussion was in order as to where to put that moderate rate unit: by itself or paired. "So if it was paired, that would move one of these BMR units and that would be my inclination," Commissioner Mueller said, as he added, "I don't want to put it at Saffron and Coriander."

Mr. Garcia told the Commissioner he thought they were going in the wrong direction, as suggested in Ordinance 1679 (section 7, item 4). "Saffron is a half-mile long and I think the short difference in the distance between the intersection of Saffron and Coriander and Tilton is not enough to change the look. I think we can put the three BMRs at the corner of Saffron and Coriander. We sure don't want to put a BMR at Tilton and Saffron – that goes against feathering." He continued by indicating that if the issue of an extra moderate still exists, he would take a moderate-rate unit on a "z" lot on Dougherty. Mr. Garcia claimed the belief that Ordinance 1679 required him to put three moderates in the R-1 and told of his intent to keep large lots on Tilton, and therefore wanted to group the moderates and BMRs on Saffron and on the east side of Dougherty. We want to put BMRs on Dougherty, Mr. Garcia said.

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Chair Weston said he had not thought the intent was to have it that way, but he was willing to 'go along'.

Mr. Garcia explained the opportunity in the R-2 to spread out the BMRs and now there remains only one location where pairing occurs.

Chair Weston asked what do the Commissioners want? Spread or congested in one area? Mr. Garcia, Chair Weston noted, has said 'congested'.

Mr. Garcia continued that between Coriander and Tilton under Ordinance 1679 he was allowed to put three BMRs, and said if he was 'mixing and melding the two' and putting a moderate rate unit there, it would be a better mix.

Chair Weston asked about feathering. SP Linder explained the locations of the differing plans and sizes of each.

Commissioner Benich said he couldn't see moving a unit just to be moving it.

Commissioner Mueller pointed out that he thinks the applicant plans to pick one of the lots on Dougherty and call it a moderate rate, adding he supports the opportunity for having moderate placement near moderate pricing. "I think there is merit in agreeing with Mr. Garcia," Commissioner Mueller stated.

Chair Weston said he assumed the issue is having three BMRs at the corners. He then led discussion regarding changing the plan with the intent of moving units for accommodation.

CHAIR WESTON CONDUCTED A STRAW VOTE ON THE ISSUE OF THE NUMBER OF MODERATE RATE AND BMR UNITS CLUSTERED ON SAFFRON. COMMISSIONERS ACEVEDO, ESCOBAR, KOEPP-BAKER, AND WESTON SAID THAT EITHER A BMR OR A MODERATE RATE UNIT SHOULD BE MOVED OFF OF SAFFRON AND RELOCATED INTERIOR TO THE PROJECT; AGAINST: BENICH, MUELLER; ABSENT: LYLE.

Mr. Garcia asked if Ordinance 1679 still applies and if he can still have 10 BMRs on Saffron? He said that if you were to go down Dougherty, the BMRs were encouraged for the corners. "What I'm trying to stress is that if we can, we would like to maintain the BMRs there and pair up the moderate rates where we have deep lots."

Chair Weston suggested he to go back and work with Staff, saying the Commissioners could not design the project for him.

Mr. Garcia asked Commissioner Koepp-Baker for clarification: "Can I build 10 BMRs on Saffron?" claiming he had understood this to be the case, 'then the Commissioners got into switching.' Commissioner Koepp-Baker indicated she had been impressed with the 10 BMRs on Saffron, but favored spreading the BMRs out.

Commissioner Mueller said the applicant should clear the plan with SP Linder: move the BMRs or move the moderate unit from the corner, again expressing preference for 'ideally moving the moderate and pairing it with a missing moderate so it would be

similar to lot 11'.

Commissioner Escobar said his interest was with the three moderates and three BMRs; the combination of which on this site is too congested. "I don't have a real preference," Commissioner Escobar said, "but I think it would be better to have the total number reduced." Mr. Garcia agreed.

SP Linder clarified that Staff was just trying to reduce the number there.

Commissioner Koepp-Baker agreed with Commissioner Escobar that looking at the Street with all same 'faces' even though dense, could still be made attractive.

One Additional Item [subdivision] had not reached resolution, SP Linder advised.

SP Linder reported that the applicant has provided a subdivision map which coordinates with the 83 building allotments to be awarded to the project. SP Linder said Staff is requesting the Commission's input on the disposition of lots 34 and 35 which contain the daycare/nursery school restriction. She continued by telling the Commissioners that Staff has recommended those lots be combined as one lot (but with a deed restriction) until the City Council determines the provision of Ordinance 1679, condition #6 have been met. The building allocations for the lots are for 2008-09. SP Linder explained according to the provisions of Ordinance 1679, the applicant cannot approach the City Council regarding the elimination of the daycare/nursery school restriction until one year after the date of issuance of the last building permit for the last residential unit within the entire RPD. She then commenced to inform as to the other date restrictions regarding the lots and some of the alternatives the applicant could seek.

Chair Weston stated there is a condition, too, of due diligence on the part of the developer under Ordinance 1679, item #2, which he read aloud, regarding the restrictions of the lots for a nursery school.

SP Linder went on to explain that under the 'best case scenario', and if the applicant were to pull all of the permits within the RPD by April 2008, there would be only a two-month period to seek amendment to the ordinance and commence construction. The applicant may end up with expired building allocations, and therefore staff is recommending the following:

- Lots 34 and 35 should be combined as one lot (with a deed restriction)
- The number of building allotments should be reduced from 14 to 12 for FY 2008-09
- If the nursery/daycare restriction is eliminated the applicant could apply for two allocations from the partially completed or on-going project set-aside (possible suggestion).

Commissioner Escobar questioned what would be the result of not acting on the matter now, but closer to the expiration date and see what actions had been taken by the developer to get an operator for the nursery school?

Discussion ensued regarding putting these two lots in the set-aside.

Commissioner Benich said he felt the Commission shouldn't even be discussing this matter and the applicant must use every due diligence for securing an operator for the

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nursery school.

Concern was voiced as to whether even with the deed restriction the lots could be sold.

Chair Weston stated he was not willing to subdivide those two lots, and would work to keep it as one 20,000 sq. ft. lot.

Commissioner Escobar said he was strongly in favor of keeping it as a single lot.

Mr. Garcia told the Commissioners this matter really upset him. "We go through the process for a reason and get allocations for a reason, then when we file the vested tentative map; it was recorded as reserved for a nursery school under certain conditions." He continued for some time about how upset he was.

Commissioner Escobar indicated concern that, "If the two lots were combined, and are then shown as one, then there is some sort of dispute and a mechanical lien is filed, could there be an obstruction of construction of the nursery school?"

Mr. Garcia said, "No, the off-site would be against the lots and bonding which the City requires." He then explained, "The City accepts the off-sites and that process will be completed in phase 8 for the 88 units, which we will have as we must do all the improvements and have them put in."

SP Linder told the Commissioners that the concern the two lots could become one instead of the one as now indicated.

Mr. Garcia complained about how hard it is to get allotments and reiterated how upset he was.

Commissioner Mueller said to put the allotments in the on-going project set-aside.

Mr. Garcia told the Commissioners he wants assurance he will not lose allocations.

Commissioner Mueller informed it can be put into the development agreement and the applicant could stub improvements for both when the other infrastructure is put into place.

Mr. McClintock suggested the applicant be permitted not to do improvements on that street.

Commissioners unanimously *disagreed*, with Lyle absent, the improvements must be done.

Mr. McClintock spoke of the experiences on Taylor where the lots were set up for one-half acre then changed to 1 acre and the workmen were made to dig up the improvements. "We want to do this the clearest, easiest way to complete the work when the nursery school is done," Mr. McClintock stated.

Chair Weston said he was not willing to give up the applicant's commitment for the nursery school. "Having the nursery is integral to the project," Chair Weston declared.

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Commissioner Mueller again stated a way to do that was, "If you do not complete the lot split, write it into the development agreement."

Discussion followed: if the development agreement was written so that if the ~~lots~~ *allocations* become two, there could be a stipulation that those two lots would go to this particular project. If the ~~lot~~ *allocation* is known to be not needed for the day care, the ~~lots~~ *allocations* would go back into the mix.

Commissioner Mueller said he would rather see it remain as one lot and make it two lots if the nursery school did not materialize, but retain the two allocations with a note to the map so there would be no need for a set aside acknowledgment in the development agreement.

(Add): By general accord, the Commissioners present (with Lyle absent) indicated the lot will remain as one with the expectation that the applicant will make every effort to secure an operator for the daycare/nursery school.

There was no further discussion regarding the item. Mr. Garcia and Mr. McClintock left the meeting at 9:28 p.m.

SP Linder advised the Commissioners of the need to take action or table the matter, directing Staff to work with the applicant for further resolution of the issues.

COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO TABLE THE MATTER OF ZAA-04-01/SD-04-16/DA-04-08: TILTON-GLENROCK TO AN INDETERMINATE DATE. THE MOTION WAS PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; LYLE WAS ABSENT.

ANNOUNCEMENTS:

PM Rowe reported that the discussion for the Business Center proposal at Cochrane and 101 had been initially set for a special meeting on July 5th; however a schedule adjustment will cause the discussion to be ready for action on the application in early August and suggested Tuesday August 2 for a special meeting date possibility. He also informed this matter may be grouped with other General Plan issues at that special meeting.

Reporting the City Council actions of the March 16 meeting, PM Rowe advised that the Members had:

- given approval of the zoning change for the Gera project on Hill Rd., as recommended by the Commission
- the Council also agreed to the Extension of Time and Zoning Amendment for In 'n Out Burger, also recommended by the Commissioners
- the Zoning Text Amendment was continued; the Council Members asked staff to provide justification for the recommended increase in the size of the monument sign and to further provide information as to the number of 5-acre parcels where the new sign provision could be applied.

Commissioner Mueller asked when the Street Standards would be agendaized? PM Rowe responded that because of staff shortage and work with the Measure C and other subcommittee the work on that matter had been delayed.

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The need for agendaizing the Housing Element was also mentioned. PM Rowe explained that the City had received the final version of the draft of the Housing Element and revisions from the Consultant had been distributed to staff and it being worked on. When that work is finalized, PM Rowe advised, it will be resubmitted.

Chair Weston asked for an update on the Measure C Subcommittee. PM Rowe told of the meetings planned and the participants involved, with announcement of the upcoming meeting schedule.

Commissioner Mueller announced the Urban Line Task Force will be sending, as a report, the completed draft to the City Council for the April 20 meeting of that body.

ADJOURNMENT:

Observing that there were no persons in the audience to further address the Commissioners, Chair Weston adjourned the meeting at 9:35 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk